

Remarks

In view of the above amendments and the following remarks, favorable reconsideration of the outstanding office action is respectfully requested.

Claims 1-11 remain in this application. Claims 1, 8 and 11 have been amended.

Restriction requirement

In the Office Action dated June 4, 2003, designated as Paper No. 7 in the above-captioned application, the Examiner issued a Restriction Requirement identifying the following groups of claims as being drawn to potentially distinct inventions:

- Group I. Claims 1-6 and 11, drawn to process, classified in class 438, subclass 710; and
- Group II. Claims 7-10, drawn to product, classified in class 385, subclass 14.

Applicants elect, with traverse, to prosecute claims 1-6 and 11.

The Examiner asserted that these inventions may be regarded as independent and distinct from one another because "the process as claimed can be used to make other and material different product such as a optical device which is not a division multiplexer."

Applicants respectfully traverse the Examiner's Restriction Requirement on the grounds that the proposed inventions are not independent and distinct from one another. More specifically, claim 1 has been amended to specifically call for a phased array narrow band wavelength division multiplexer.

That is, claim 1 has been rewritten to depend from the independent claim 11 as its base claim. It is now directed to making a multiplexer. Claim 7 claims a product (multiplexer) made from the method of claim 1. Similarly, Claim 6 depends from claim 1 and, therefore, calls for a multiplexer. Claims 8-10 claim the product (multiplexer) made by the method of claim 6.

Therefore, the claims 1-6 claim a process for making a phased array narrow band wavelength division multiplexer. Claims 8-10 claim the product (phased array narrow band wavelength division multiplexer) resulted from the claimed process. Thus, claims 1-6, 11 and 7-10 should be examined together because the processed claimed in claims 1-6 can not be used to make something else.

In addition, applicants respectfully traverse the Examiner's Restriction Requirement on the grounds that the proposed inventions are inextricably intertwined, and prosecution of the proposed groups of claims together would be most effective for the Office. In order to

conduct a comprehensive search regarding any one of the groups, including the group provisionally elected above, it would be inherently necessary to review the same pertinent fields and classes of prior art relating to the other groups. Moreover, the important questions of patentability and claim interpretation are likely to be based on substantially similar issues and evaluations for each group of claims, and would require consideration of the same prior art, and combined prosecution is therefore less likely to result in inconsistent or conflicting file histories.

As such, Applicant respectfully requests that the Examiner withdraw the Restriction Requirement in the next subsequent Office Action, and continue prosecution of Groups I and II, claims 1-11 together with one another.

Applicants believe that a one month extension of time fee of \$110.00 is necessary to make this Response timely. Applicants respectfully request the Office grant such time extension pursuant to 37 C.F.R. § 1.136(a) as necessary to make this Response timely, and hereby authorizes the Office to charge any necessary fee or surcharge with respect to said time extension to the deposit account of the undersigned firm of attorneys, Deposit Account 03-3325.

Please direct any questions or comments to Svetlana Z. Short at 607-974-0412.

Respectfully submitted,

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Date: 7/10/03

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CERTIFICATE OF MAILING UNDER 37 C.F.R.

§ 1.8: I hereby certify that this paper and any papers referred to herein are being deposited with the U.S. Postal Service, as first class mail, postage prepaid, addressed to Commissioner of Patents, Alexandria, VA 22313-1450 on 7/10/03

Svetlana Z. Short
Svetlana Z. Short, Signature